

Exhibit D

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Allegiance Telecom of Illinois, Inc.	:	
	:	
Petition for Extension of Waiver of	:	00-0800
83 Ill. Admin. Code Sections	:	
725.500(o) and 725.620(b).	:	

ORDER

By the Commission:

On December 14, 2000, Allegiance Telecom of Illinois, Inc. ("Allegiance") filed a petition with the Illinois Commerce Commission ("Commission") seeking a second one-year extension of a one-year waiver it received concerning the requirements of Sections 725.500(o) and 725.620(b) of Ill. Adm. Code Part 725. In general, these rules require the placement of call boxes outside of a local exchange carrier's ("LEC") central office. The purpose of the call box is to enable the local public safety answer point ("PSAP") located in the area served by the central office to use the call box to receive 9-1-1 calls if the central office is unable to complete calls to the PSAP.

On September 23, 1998 in Docket No. 98-0475, the Commission found that it was technologically infeasible for Allegiance to comply with Sections 725.500(o) and 725.620(b) and granted Allegiance a one-year waiver from complying with these sections in accordance with Section 725.101. The Commission granted a one-year extension of the original waiver on January 12, 2000 in Docket No. 99-0633. In both prior orders, the Commission found that Allegiance may request an extension of the waiver if necessary. Attached to Allegiance's December 14, 2000 petition are copies of the orders entered in Docket Nos. 98-0475 and 99-0633, which are marked as Exhibits B and C, respectively.

Pursuant to due notice, this matter was scheduled for hearing before a duly authorized Hearing Examiner at the offices of the Commission in Springfield, Illinois on February 6, 2001. Notice of the hearing was served on all of the PSAPs served by Allegiance, however, none of the PSAPs chose to intervene. Allegiance was represented by counsel and entered into evidence the prepared direct testimony of Roger Stewart as Allegiance Exhibit 1.0. Mr. Stewart is employed by Allegiance Telecom, Inc., the parent company of Allegiance, as Director of Regulatory-Central in the Department of Regulatory and Interconnection. Commission Staff ("Staff") also entered an appearance. No other appearances were entered. At the conclusion of the hearing, the record was marked "Heard and Taken." No petitions for leave to intervene were filed in this docket.

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Mr. Stewart essentially testified that Allegiance's situation has not changed since it received its first one-year waiver from Sections 725.500(o) and 725.620(b). As discussed in Docket No. 98-0475, as a competitive LEC, Allegiance's network configuration is not compatible with the call box requirements contained in Part 725. Allegiance operates a single switch located at 140 South Dearborn, Suite 220, Chicago, Illinois but provides service to customers covered by approximately 170 PSAPs. In the event of an outage between Allegiance's central office and the PSAPs, multiple PSAPs would be attempting to answer calls on a single call box. Moreover, as explained in Docket No. 98-0475, if one the PSAPs connected to Allegiance's switch activates the call box, 9-1-1 calls to all of the PSAPs would be routed to the call box. Staff testified that no technological solution to this problem exists. Incumbent LECs are not troubled with these problems since they have multiple switch locations that correspond geographically to PSAPs, according to Mr. Stewart.

To compensate for the absence of a call box, Mr. Stewart testified that Allegiance has provisioned diverse paths between its switch and the 9-1-1 selective routers. To demonstrate how this system functions, Mr. Stewart stated that Allegiance has established trunk groups to each of the 9-1-1 selective routers in the Chicago suburbs, and has established separate trunk groups to provide default paths to the appropriate PSAP in case of malfunction. He indicated that Allegiance has at least two trunks between Allegiance's switch and each selective router for PSAPs in each suburban community in which Allegiance has customers. Within these pairs of trunks, each individual trunk follows a physically diverse facility path from the other trunk in the pair.

In the City of Chicago, Mr. Stewart testified that Allegiance also has diverse paths to the two 9-1-1 offices designated for Allegiance by the incumbent LEC. He described this arrangement as consisting of two pairs of physically diverse trunks between Allegiance's switch and each of the two designated end offices, as well as additional trunks connecting the two end offices. With this diversity, Mr. Stewart concluded that Allegiance can repair any malfunctioning trunk while traffic is routed to operational trunks, making outages unlikely for Allegiance's customers and the PSAPs.

Mr. Stewart stated that Allegiance's network is monitored twenty-four hours a day, seven days a week, with technicians on call to respond to any reported trouble on the network. In the event that an outage occurs in one path, calls are automatically routed over the intact path. Further, Mr. Stewart testified that Allegiance continues to maintain a 750 kW diesel generator and additional battery back up power at its switch location to provide power should a commercial power failure occur. Should Allegiance's switch become isolated, however, Mr. Stewart testified that Allegiance has adopted and will continue to follow a system under which Allegiance will use its best efforts to notify the primary point of contact within each 9-1-1 system affected within 15 minutes of a confirmed outage in compliance with Section 725.500(p). Adopting practices to provide such notice was made a condition to receipt of the waiver in Docket No. 98-0475.

Another condition imposed by the Commission in Docket No. 98-0475 required Allegiance to notify all then-existing and future 9-1-1 systems within Allegiance's service

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area that Allegiance had received a waiver from complying with Sections 725.500(o) and 725.620(b). The Commission also required Allegiance to provide to the Commission's 9-1-1 Program Director copies of the notification sent to the 9-1-1 systems. Mr. Stewart stated that Allegiance is willing to accept the same conditions concerning the requested extension.

Allegiance requests the one-year extension of its waiver from Sections 725.500(o) and 725.620(b) under Section 725.101. Section 725.101 provides:

- a) A public agency or a telecommunications carrier may file a petition pursuant to Ill. Adm. Code 200 for a temporary waiver from compliance with the requirements of Sections . . . 725.500 . . . (o), [and] 725.620(b) . . . if the petitioner alleges that compliance with the provision is either technologically infeasible or that it is financially incapable of complying with the requirement. In determining whether to grant a waiver from a specified requirement, the Commission shall consider the economic impact of compliance, costs and rate consequences (if applicable), and the effect of the waiver on the provision of emergency services.
- b) If granted, such waiver will be effective for a period of up to one year from the date of the order granting the waiver. A party seeking an extension of the waiver period must file a separate petition with the Commission. Any extension of the waiver period shall be for no longer than one year. A party may file for and be granted more than one waiver and more than one extension of the waiver period.

83 Ill. Admin. Code Section 725.101.

Staff recommended that Allegiance's petition for a second one-year extension of the one-year waiver from Sections 725.500(o) and 725.620(b) be granted. Staff added, however, that the Commission should require Allegiance to abide by the same conditions found in the Commission's Order in Docket No. 99-0633. In that Order, the Commission required Allegiance to provide written notification to all current and future 9-1-1 systems that Allegiance is providing local exchange service in those 9-1-1 systems' areas and explain that Allegiance will not be providing a call box pursuant to a second one-year waiver granted by the Commission. Furthermore, the Commission required Allegiance to ensure that a minimum of two facility paths between its central office and the 9-1-1 selective router be provided, each with a minimum of two 9-1-1 trunk group members. The Commission also conditioned granting the waiver with the stipulation that Allegiance maintain its system for notifying a primary point of contact within a 9-1-1 system within 15 minutes after a confirmed outage. Finally, the Commission directed that Allegiance must abide by any revisions made to Part 725. At the February 6, 2001 hearing, Allegiance accepted Staff's recommendation. The Commission finds Staff's suggestions appropriate in this matter.

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The Commission finds that the record supports granting Allegiance's request for a second one-year extension of its waiver from complying with Sections 725.500(o) and 725.620(b) of the Commission's rules. For the reasons set forth in Mr. Stewart's and Staff's testimony, the Commission finds that it continues to be technologically infeasible for Allegiance to comply with the provisions of these sections. The Commission also notes that Staff is in the process of proposing revisions to Part 725 to address the issue at hand. The type of diverse routing utilized by Allegiance is among the options being contemplated in the revisions. Within the coming year, Staff anticipates initiating a rulemaking that will address this situation faced by Allegiance and all competitive LECs operating in Illinois. The Commission's Staff and the industry should continue to work on a resolution to the problems described in the record. To ensure public safety, the Commission also finds that the conditions recommended by Staff and the same conditions imposed in Docket No. 99-0633 should be imposed in this proceeding as well. The Commission notes that Allegiance consents to the imposition of these conditions.

The Commission, being fully advised in the premises, is of the opinion and finds that:

- (1) Allegiance is a corporation duly authorized to do business in the State of Illinois and has received authority from the Commission to provide local exchange and interexchange services;
- (2) the Commission has jurisdiction over the parties and over the subject matter of this proceeding;
- (3) the recitals set forth in the prefatory portion of this order are supported by the record and are hereby adopted as findings of fact;
- (4) it is technologically infeasible for Allegiance to comply with the provisions of Section 725.500(o) and Section 725.620(b) of the Commission's rules;
- (5) Allegiance should receive a second one-year extension, from the date of this Order, of its one-year waiver from complying with Sections 725.500(o) and 725.620(b) under Section 725.101;
- (6) Allegiance should be required to inform in writing, within thirty (30) days of the date of this Order, those 9-1-1 systems in whose areas it provides service that Allegiance is providing service in their respective areas and that Allegiance will not be providing a call box at its facility at 140 South Dearborn, Suite 220, Chicago, Illinois pursuant to a second one-year extension of the waiver previously granted by the Commission;
- (7) upon completing the notification described in Finding (6), Allegiance should provide to the Commission's 9-1-1 Program Director a copy of the written notification sent and a list of all those 9-1-1 systems who received the written notification;

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- (8) Allegiance should maintain its system for notifying, within fifteen minutes after a confirmed outage, the primary point of contact of any isolated 9-1-1 system pursuant to 83 Ill. Adm. Code 725.500(p);
- (9) Allegiance should always ensure that a minimum of two facility paths between its central office and the 9-1-1 selective router be provided, each with a minimum of two 9-1-1 trunk group members;
- (10) any revisions to Part 725 that become effective within one year from the date this Order is entered should supersede the waivers granted in this Order; and
- (11) Allegiance may request a third extension of the waiver from Sections 725.500(o) and 725.620(b) if the aforementioned revisions to Part 725 are not completed within one year of this Order being entered.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Allegiance Telecom of Illinois, Inc. is hereby granted a second extension of the waiver received in Docket No. 98-0475 from complying with the requirements of Section 725.500(o) and Section 725.620(b) of the Commission rules. This extension of the waiver shall be in force for one year from the date this Order is entered.

IT IS FURTHER ORDERED that Allegiance Telecom of Illinois, Inc. shall notify in writing those 9-1-1 systems in whose areas it provides service as described in finding (6).

IT IS FURTHER ORDERED that Allegiance Telecom of Illinois, Inc. shall notify the Commission's 9-1-1 Program Director as described in Finding (7).

IT IS FURTHER ORDERED that Allegiance Telecom of Illinois, Inc. shall maintain its system for notifying, within fifteen minutes after a confirmed outage, the primary point of contact of any isolated 9-1-1 system pursuant to 83 Ill. Adm. Code 725.500(p).

IT IS FURTHER ORDERED that Allegiance Telecom of Illinois, Inc. shall always ensure that a minimum of two facility paths between its central office and the 9-1-1 selective router be provided, each with a minimum of two 9-1-1 trunk group members.

IT IS FURTHER ORDERED that any revisions to Part 725 that become effective within one year from the date this Order is entered shall supersede the waivers granted in this Order.

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IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 21st day of February, 2001.

(SIGNED) RICHARD L. MATHIAS

Chairman

(SEAL)